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## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9596]

RIN 1545-BK39

Disregarded Entities and the Indoor Tanning Services Excise Tax; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to temporary regulations (TD 9596), which were published in the **Federal Register** on June 25, 2012 (77 FR 37806) relating to disregarded entities (including qualified subchapter S subsidiaries) and the indoor tanning services excise tax.

DATES: This correction is effective on **[INSERT DATE THIS DOCUMENT IS PUBLISHED IN THE FEDERAL REGISTER]**, and applies on and after June 25, 2012.

FOR FURTHER INFORMATION CONTACT: Michael H. Beker, (202) 622-3130 (not a toll-free-number).

SUPPLEMENTARY INFORMATION:

### Background

The temporary regulations (TD 9596) that are the subject of this correction are under section 7701 of the Internal Revenue Code.

### Need for Correction

As published, the temporary regulations contain errors that may prove to be misleading and are in need of clarification.

## **List of Subjects in 26 CFR Part 301**

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

### **Correction of Publication**

Accordingly, 26 CFR part 301 is corrected by making the following correcting amendment:

## **PART 301--PROCEDURE AND ADMINISTRATION**

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

### **§301.7701-2T [Corrected]**

Par. 2. Section 301.7701-2T is revised to read as follows:

§301.7701-2T Business entities; definitions (temporary).

(a) through (c)(2)(iv)[Reserved]. For further guidance, see §301.7701-2(a) through (c)(2)(iv).

(A) In general. Section 301.7701-2(c)(2)(i) (relating to certain wholly owned entities) does not apply to taxes imposed under Subtitle C--Employment Taxes and Collection of Income Tax (Chapters 21, 22, 23, 23A, 24 and 25 of the Internal Revenue Code). However, §301.7701-2(c)(2)(i) does apply to withholding requirements imposed under section 3406 (backup withholding). The owner of a business entity that is disregarded under §301.7701-2 is subject to the withholding requirements imposed under section 3406 (backup withholding). Section 301.7701-2(c)(2)(i) also applies to taxes imposed under Subtitle A, including Chapter 2--Tax on Self Employment Income.

The owner of an entity that is treated in the same manner as a sole proprietorship under §301.7701-2(a) will be subject to tax on self-employment income.

(B) [Reserved]. For further guidance, see §301.7701-2(c)(2)(iv)(B).

(C) Exceptions. For exceptions to the rule in §301.7701-2(c)(2)(iv)(B), see sections 31.3121(b)(3)-1(d), 31.3127-1(c), and 31.3306(c)(5)-1(d).

(D) through (c)(2)(v) [Reserved]. For further guidance, see §301.7701-2(c)(2)(iv)(D) through (c)(2)(v).

(vi) Tax liabilities with respect to the indoor tanning services excise tax--(A) In general. Notwithstanding any other provision of §301.7701-2, §301.7701-2(c)(2)(i) (relating to certain wholly owned entities) does not apply for purposes of--

(1) Federal tax liabilities imposed by Chapter 49 of the Internal Revenue Code;

(2) Collection of tax imposed by Chapter 49 of the Internal Revenue Code; and

(3) Claims of a credit or refund related to the tax imposed by Chapter 49 of the Internal Revenue Code.

(B) Treatment of entity. An entity that is disregarded as an entity separate from its owner for any purpose under §301.7701-2 is treated as a corporation with respect to items described in paragraph (c)(2)(vi)(A) of this section.

(d) through (e)(4) [Reserved]. For further guidance, see §301.7701-2(d) through (e)(4).

(5) Paragraphs (c)(2)(iv)(A) and (c)(2)(iv)(C) of this section apply to wages paid on or after November 1, 2011. For rules that apply to paragraph (c)(2)(iv)(A) of this section before November 1, 2011, see 26 CFR part 301 revised as of April 1, 2009.

However, taxpayers may apply paragraphs (c)(2)(iv)(A) and (c)(2)(iv)(C) of this section to wages paid on or after January 1, 2009.

(e)(6) through (e)(7) [Reserved]. For further guidance, see §301.7701-2(e)(6) and (e)(7).

(8) Expiration Date. The applicability of paragraphs (c)(2)(iv)(A) and (c)(2)(iv)(C) of this section expires on or before October 31, 2014.

(9) Indoor tanning services excise tax--(i) Effective/applicability date. Paragraph (c)(2)(vi) of this section applies to taxes imposed on amounts paid on or after July 1, 2012.

(ii) Expiration date. The applicability of paragraph (c)(2)(vi) of this section expires on or before June 22, 2015.

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